REMARKS

The Office Action dated June 20, 2006, has been received and carefully noted. The amendments made herein and the following remarks are submitted as a full and complete response thereto.

In this response, no claims have been amended. Accordingly, Claims 1-3 are pending in the present application, and are subject to examination.

Rejection of Claims 1-3 Under 35 U.S.C. § 103(a)

Claims 1-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hakkinen et al. (U.S. Patent Publication No. 2001/0023185, hereinafter "Hakkinen") in view of Nakano et al. (U.S. Patent No. 5,933,782, hereinafter "Nakano"), and further in view of Taguchi (U.S. Patent No. 6,600,907). The Applicant respectfully traverses the rejection.

Claim 1 sets forth a radio base station which, among other features, transmits, when the radio base station starts a communication with a mobile station by the space division multiplex method, an instruction to stop performing a diversity reception using the plurality of antennas to the mobile station, wherein the mobile station stops the diversity reception using the plurality of antennas and performs a reception using one antenna.

The Applicant submits that the applied prior art fails to teach or suggest at least this combination of elements. The Office Action cites Hakkinen as allegedly teaching a radio base station for performing a radio communication with a plurality of mobile stations with a space division multiplex method. The Office Action admits that Hakkinen

fails to teach transmitting, when the radio base station starts a communication with a mobile station by the space division multiplex method, an instruction to stop performing a diversity reception to the mobile station. Nakano and Taguchi are cited as allegedly curing these deficiencies.

The Office Action cites Nakano as allegedly teaching transmitting, when the radio base station starts a communication with a mobile station by the space division multiplex method, an instruction to stop performing a diversity reception to the mobile station, wherein the mobile station stops the diversity reception and performs a reception using one antenna (see Office Action, page 2). Applicants respectfully disagree. Nakano teaches "a mobile station simultaneously connects to a plurality of radio base stations, and performs a reception operation for combining signals received from the plurality of radio base stations, and performs a reception operation for combining signals received from the plurality of radio base stations, wherein a mobile station stops the reception operation of the mobile station." This differs from transmitting, when the radio base station starts a communication with a mobile station by the space division multiplex method, an instruction to stop performing a diversity reception using the plurality of antennas to the mobile station, wherein the mobile station stops the diversity reception using the plurality of antennas and performs a reception using one antenna.

In other words, the Nakano reference discloses a technology for stopping a mobile station from simultaneously connecting to a plurality of radio base stations.

Nakano fails to teach or suggest sending to a mobile station an instruction to stop performing a diversity reception using the plurality of antennas, as recited in Claim 1.

Taguchi is cited as allegedly teaching having a plurality of antennas and then performing a reception using one antenna (see Office Action, page 3). However, Taguchi fails to cure the deficiencies listed above with respect to Hakkinen and Nakano.

Accordingly, Hakkinen, Nakano, and Taguchi, alone or in any combination thereof, fail to teach or suggest at least, a radio base station which transmits, when the radio base station starts a communication with a mobile station by the space division multiplex method, an instruction to stop performing a diversity reception using the plurality of antennas to the mobile station, wherein the mobile station stops the diversity reception using the plurality of antennas and performs a reception using one antenna, as recited in Claim 1.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. M.P.E.P. § 2143.03. For at least the reasons provided above, Applicants submit that Hakkinen in view of Nakano and further in view of Taguchi, alone or in any combination thereof, do not teach or suggest all the elements of Claim 1. Accordingly, the Applicant respectfully submits that Claim 1 is allowable.

As Claims 2-3 depend from Claim 1, the Applicant submits that each of these claims incorporates the patentable aspects therein, and are therefore allowable for at least the reasons set forth above with respect to the independent claim, as well as for the additional subject matter recited therein.

Additionally, Applicants respectfully contend that the Office Action has failed to provide any motivation for combining the teachings of Hakkinen, Nakano, and Taguchi. The Office Action has failed to cite to any portion of Hakkinen, Nakano, Taguchi, or any other objective teachings in the relevant art that would cause one skilled in the art to combine the references, as asserted by the Office Action. Further, the specification describes an example of one of the advantages of the presently claimed invention as follows

> However, there is a problem that when a space-division-multiplex base station uses the space division multiplex to communicate with a plurality of mobile stations performing the diversity reception, the communication quality deteriorates. The reason for this is thought that a positional difference between the whip antenna and the embedded antenna greatly affects reception of the array antenna pattern. More specifically, since many mobile stations use a whip antenna for transmission, the radio base station often points the array antenna pattern at a spatial position of the whip antenna. In this case, if the embedded antenna is located at such a position as is interfered with an array antenna pattern for another mobile station, the embedded antenna may be selected by mistake since the diversity reception selects an antenna based only on the reception signal level. This leads to deterioration of the communications quality (e.g., increase in the bit error rate).

See Specification, page 3, lines 7-22. The presently claimed invention solves the above-described problem, communicating with the radio base station by the space division multiplex method. This is an advantageous effect produced by the present invention and described only in the present application, and is not taught or suggested as motivation to combine the references of the applied prior art.

Consequently, the Applicant respectfully submits that the Office Action has resorted to impermissible hindsight reconstruction and used the Applicant's disclosure as a blueprint to combine selected elements of the applied art in a piecemeal fashion to allegedly result in the claimed invention. Such a practice is impermissible and contrary to law.

Accordingly, the Applicant respectfully requests withdrawal of the rejection.

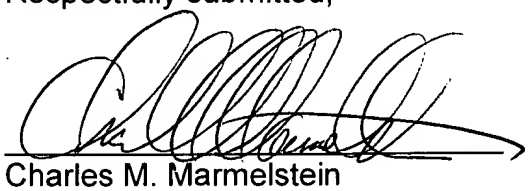
Conclusion

In view of the foregoing, reconsideration of the application, withdrawal of the outstanding objections and rejections, allowance of Claims 1-3, and the prompt issuance of a Notice of Allowability are respectfully solicited.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper has not been timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, referencing docket number 101201-00013.

Respectfully submitted,



Charles M. Marmelstein
Registration No. 25,895

Customer No. 004372
ARENT FOX PLLC
1050 Connecticut Avenue, NW, Suite 400
Washington, DC 20036-5339
Tel: (202) 857-6000
Fax: (202) 857-6395

CMM/SCO